RECENT IMPORTANT DECISIONS

ATTORNEY AT LAW—DISBARMENT—DISLOYALTY.—Margolis was admitted to the bar in 1910 and in disbarment proceedings he admitted he was an anarchist, a syndicalist, a communist, a Bolshevik, an I. W. W. and a member of the Union of Russian Workers. He had aided in the distribution through the mails of an anti-war magazine, was active in the organization of the Anti-Conscription League, and encouraged others to violate the laws of the land. He was disbarred, and although he had not been convicted under any statute, the Supreme Court of Pennsylvania affirmed the order, saying:—"He was actively participating in efforts to nullify the law" and that its standard of professional integrity for lawyers was not satisfied by such conduct as merely enables them to escape the penalties of the criminal law. *In Re Margolis* (Penna., 1920), 112 Atl. 478.

An attorney is liable to the summary jurisdiction of the court for misconduct, and subject to disbarment. *Ex Parte Wall,* 107 U. S. 265. The proceeding is not for the purpose of punishment of the attorney, but for the purpose of preserving the courts of justice from the official ministration of persons unfit to practice in them. *In Re Thatcher,* 212 Fed. 801. In 1863 the California Court in a case involving a somewhat similar question said:—"The right (to practice law) is subject to the condition that the attorney shall possess a blameless moral character. The public have a right to demand that no person shall be permitted to aid in the administration of justice whose character is tainted with dishonesty, corruption, crime, and we will add, disloyalty, or treasonable acts. The safety of the government and the security of popular rights depend, in a great degree, upon the purity of the bench and bar. If treason is allowed to find its advocates among their members, the very existence of the government and the liberties of the people are endangered." *Cohen* v. *Wright,* 22 Cal. 297, 321. During the past few years the courts have again been compelled to protect themselves from disloyal servants, and the court, *In Re Wiltsie,* 109 Wash. 261, says that the unprofessional solicitation of the business of preparing questionnaires and claims of exemption, under the Selective Service Act, and the filing of false claims of exemption, are flagrantly unethical, as well as disloyal, and evidence a degree of moral turpitude, authorizing disbarment of an attorney at law. In a later case, *In Re Arctander,* 188 Pac. 381, (Wash., 1920), an attorney charged each registrant under the Selective Service Law $5.00 for assisting in preparing questionnaires and assisting two hundred registrants in withdrawing papers declaring intention to become citizens. His conduct was held disloyal, mercenary, unethical, and unprofessional, and to warrant disbarment under the American Bar Association's Code of Ethics. See also *In Re O'Reilley,* 176 N. Y. Supp. 781. The courts have not hesitated to grapple with a practical problem in a sane way and would seem to indicate that they (in Dean Wigmore's words) have not been entirely "shocking in obstuse

indifference to the vital issues at stake in August, 1918," and give us confidence in their ability successfully to meet "pending and coming issues."

BROKER—VENDOR'S KNOWLEDGE OF HIS INSTRUMENTALITY NOT NECESSARY.—The plaintiff, a real estate broker sought to recover certain commissions from the defendant, claimed to be due the plaintiff for obtaining and furnishing a tenant for the defendant. The trial court refused an instruction to the effect that if the owner at the time of the sale did not know of the broker's instrumentality in procuring the purchaser, the broker could not recover. *Held,* there was no error. *McCready* v. *Nicholson* (Mich., 1921), 182 N. W. 54.

The Michigan Court in the first opportunity it has had to pass on this question rejects the Minnesota doctrine that "to entitle the broker to a commission where there is no exclusive agency, it must appear that the owner knew, or ought to have known from the circumstances that the broker was instrumental in inducing the purchaser to enter into the contract," *Quist* v. *Goodfellow,* 99 Minn. 509, and follows the great weight of authority that a broker is entitled to a commission on a sale of real estate if he is the procuring cause of the sale, and "it is wholly unimportant whether the vendor knew that his purchaser was sent by the broker or not. It is sufficient if that was the fact, and he was not misled by the agent," *Adams* v. *Decker,* 34 Ill. App. 17; *Lloyd* v. *Matthews,* 51 N. Y. 124. For complete citation of cases see 8 L. R. A. (N. S.) 153, *Note,* and 9 Ann. Cas. 431, *Note.* The test as laid down by the Michigan Court: "Was the broker the procuring cause of the sale or lease?" seems sufficient in itself to settle the question. If he was, it seems immaterial whether the vendor knew of it or not. The broker rendered a service and should receive his pay. Of course it is an easy thing for a real estate agent to conceive that he is the procuring cause of a sale of real estate—especially of valuable real estate—but at the same time a good many vendors seem not at all unwilling to accept the services of a real estate man's advertising, and then having secured a buyer, slip out without much more than a "Thank You." The Minnesota rule protects the vendor as against the real estate man by insisting on publicity, and causes the broker to put in his appearance before the sale, rather than, as has often happened, some days later. This seems to be a difficulty which should be left to a jury to be dealt with as a question of fact, viz., to ascertain whether the broker was the *procuring cause* of the sale; and not a question to be determined by reference to a standard set up by law. For a discussion as to procuring cause see 44 L. R. A. 321, *Note.*

CONSTITUTIONAL LAW—IMPAIRMENT OF CONTRACTS—ARBITRATION LAW.—The Arbitration Law (Laws of New York, 1920, Chap. 275), providing for arbitration when agreed upon in the contract between the parties *held* constitutional. It strengthens rather than impairs the obligation of a contract, and therefore does not violate Article I, Sec. 10, ch. 1 of the Federal Constitution relating to impairment of contracts. *Berkovitz, et al.* v. *Arbib & Houlberg, Inc.,* (N. Y., 1921), 130 N. E. 288.

A statute may not be declared unconstitutional for giving an additional